

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2020-103-00038M

Parcel No. F0017-24

Ryan Kopf (Bag of Holding Company, LLC.),

Appellant,

vs.

City of Davenport Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 2, 2021. Ryan Kopf was self-represented. Davenport City Attorney Thomas Warner represented the Board of Review.

Bag of Holding Company, LLC owns a four-family conversion property located at 1316 Pershing Avenue, Davenport. The property's January 1, 2020, assessment was set at \$121,680, allocated as \$5,640 in land value and \$116,040 in dwelling value. (Ex. A).

Ryan Kopf, majority owner of Bag of Holding Company, LLC, petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property; that the property is assessed for more than the value authorized by law; and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1)(a, b, & d). The Board of Review denied his petition. (Ex. B).

Kopf then appealed to PAAB re-asserting his claim that the property is over assessed.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject is a two-story four-family conversion built in 1930. The dwelling has 3108 square feet of gross living area, a full unfinished basement, a deck, a patio, and central air. It is listed in observed condition with a 3-05 average-quality grade. The improvements have a 40% physical depreciation adjustment and an additional 20% external and 20% functional obsolescence adjustment applied to the assessment. The site is 0.065 acres. (Ex. A).

Kopf purchased the subject in July 2015 for \$54,100. (Ex. A). He offered evidence and testimony of shootings in the subject's area, and of a nearby property in severe disrepair. (Exs. 2-5). Kopf testified that when he purchased the property it was considered to be a good solid home that did not need a lot of work. He has spent approximately \$30,000 on the property since its purchase in 2015 but around \$15,000 of that total was spent on a sewer line repair. Additionally, the City required a better entrance and removal of two decks. Other repairs were made to two bathrooms and central air units. He also testified new carpeting and painting was completed.

Kopf submitted an appraisal prepared by Brandon Fitzsimmons, Rally Appraisal, Bettendorf. (Ex. 1). Fitzsimmons valued the subject property for financing purposes as of November 22, 2019. Fitzsimmons did not testify at the hearing

Fitzsimmons measured the dwelling, and reported a gross living area of 2978 square feet. He developed the sales and income approaches, reconciling to a final opinion of \$85,000. He concluded that the cost approach lacks a precise depreciation and was not necessary to form a credible scope of work. (Ex. 1, p. 5).

In his sales comparison approach, Fitzsimmons analyzed three sales and two active listings of multi-unit apartment complexes in Davenport. No abnormal sales conditions are noted in the appraisal. The following table summarizes his comparable properties.

Address	Site Size (SF)	Age in Years	Gross Living Area (SF)	Gross Monthly Rent	Sale Date	Sale or Listing Price	Indicated GRM ¹	Adjusted Value
Subject	2820	89	2978	\$1900	NA	NA	NA	NA
1-1630 W 17th St	12,426	119	3952	\$1675	1/2019	\$105,500	63	\$93,500
2-406 Oak St	9000	89	2978	\$2175	8/2019	\$115,000	53	\$110,800
3-1410 E 11th St	17,550	137	3577	\$1875	1/2017	\$91,000	49	\$83,500
4-1436 W 15th St	7500	89	2796	\$1855	Active	\$100,000	54	\$95,000
5-1228 Tremont Ave	9600	89	2728	\$1875	Active	\$95,000	51	\$90,250

* rounded

As evidenced by photographs, four of the comparables are converted single family dwellings like the subject. Fitzsimmons reports Davenport sales were limited so it was necessary to use Sale 3, a 2017 sale, as well as Sales 1 and 2 which were over one mile from the subject. He made no location or time adjustments. Fitzsimmons also made no adjustments for differences in gross living area or site size. The comparables bracket the subject's gross living area, but the subject has by far the smallest site size. He explained the reconciliation took into consideration location differences, but gave no further details. He concludes the sales comparison approach indicates a value for the subject of \$85,000.

Fitzsimmons reports the subject is not separately metered for utilities and the owner pays all utilities. He includes no discussion or analysis of who pays utilities for

¹ Gross Rent Multiplier

each of the comparable properties, and no adjustments for utilities were made in the sales comparison approach. However, he states the utility differences are taken into consideration in the GRM. Therefore, while the comparables have a range of GRM's between 49 and 63. Fitzsimmons reports similar properties in the subject's neighborhood have a GRM of 40 and he selects a GRM of 40 to value the subject.

The subject has the second highest monthly gross income, but has a lower corresponding value than any of the unadjusted sale prices. Fitzsimmons implies this is because of its location and owner paid utilities. (Ex. 1, p. 13).

In his income approach, Fitzsimmons considered three comparable rental properties and concluded an estimated monthly rent for the subject of \$2000; \$100 higher than the subject's actual monthly income. He used a GRM of 40 to arrive at his indicated value by the income approach of \$80,000.

Fitzsimmon states the sales approach is the best indicator of value and "the final value opinion was selected toward the bottom of the [sales] range due to the subject's age and lack of more extensive updating through out the interior of the dwelling and due to the influence of the income approach." (Ex. 1, p. 13).

The Board of Review was critical of the appraisal and also asserted Kopf had denied access to inspect or appraise the property, but Kopf could not recall those requests being made. PAAB notes the docket does not reflect a request for discovery or a motion to compel an inspection. It did not submit any evidence to support the assessment or to refute the Fitzsimmons appraisal.

Analysis & Conclusions of Law

Kopf asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(1)(b).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). If PAAB determines Kopf has established the grounds for his protest, then PAAB must make an

independent determination of the property's correct value based on all of the evidence. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 397 (Iowa 2009) (citations omitted).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. Iowa Code §441.21(1)(b). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782 (citations omitted).

In determining market value, “[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value.” *Id.* Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision*, 457 N.W.2d at 597. “[A]bnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value.” § 441.21(1)(b). Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, discounted purchase transactions, or purchases of adjoining land or other land to be operated as a unit. *Id.*

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783 (emphasis added). If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its

‘[s]ize, use, location and character,” and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sales prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Id.* (other citations omitted).

Kopf submitted the Fitzsimmons appraisal concluding an opinion of market value of \$85,000 for the subject property. The appraisal was developed with the sales comparison approach to value and we find it complies with the statutory scheme. There is no indication the sales were abnormal and the properties used in the appraisal were all located in Davenport and appear similar in use, size, age, quality, and condition to the subject. The sales were adjusted to account for differences with the subject and we find the sales comparison approach is reliable. Additionally, the sales comparison approach is supported by an income approach to value that used comparable properties to establish a market rent. The Fitzsimmons appraisal shifts the burden to the Board of Review to uphold its valuation.

The Board of Review did not offer testimony or any evidence in support of the 2020 assessed value.

Based on the foregoing, we conclude the Board of Review has failed to uphold its burden. Further, we conclude the appraisal is the most credible evidence in the record of the subject’s market value as of the assessment date and modify the 2020 assessment accordingly.

Order

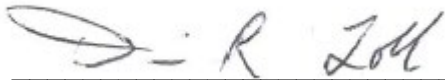
PAAB HEREBY MODIFIES the City of Davenport Board of Review’s action and orders the subject property’s January 1, 2020, assessment be set at \$85,000, allocated as \$5,640 in land value and \$79,360 in dwelling value

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB

administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

Ryan Kopf by eFile

City of Davenport Board of Review by eFile

Scott County Auditor
600 W. 4th Street
Davenport, IA 52801-1003